

DEPARTMENT OF VETERANS AFFAIRS ANALYSIS OF MEDICAL MALPRACTICE CLAIMS FY 1993 REPORT

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INTRODUCTION

In 1992, the Office of the Associate Chief Medical Director for Quality Management of the Department of Veterans Affairs (VA) and the Armed Forces Institute of Pathology (AFIP) entered into a sharing agreement to assist efforts aimed at improving the quality of VA medical care. Shortly thereafter, the Department of Legal Medicine, AFIP, began collecting VA medical malpractice claims data and extracting information for analysis from medical records and associated documents. The sharing agreement pertains to all malpractice claims involving medical care rendered by the VA that were filed administratively since 1 October 1992. An existing malpractice data collecting system, the Tort Claim Information System (TCIS), was substantially modified by the agreement. The modified TCIS was described in a previous issue of this publication.¹

The first annual report of aggregate data, based on claims filed between 1 October 1992 and 30 September 1993, was produced by the Department of Legal Medicine six months after the period ended.² Copies of the report were sent to the VA Central Office, the four VA regions and to the Office of Quality Management of each VA medical facility. During the 1993 fiscal year, 801 medical malpractice claims were filed against the Department of Veterans Affairs. The VA had approximately 925,000 hospital discharges and 26,000,000 outpatient visits during the same time period. The rate of claims per hospital discharge was less than one per 1,000 hospital patient discharges (.864/1000).

Both this review and the 1993 report are based on newly filed claims alleging medical negligence. The merits of the allegations are often not determined until cases are nearly resolved. According to the Office of the General Counsel, VA, the average time between the date of an incident and the date of case closure (both administratively closed cases and those closed by litigation) is 3.6 years. Closure information on most cases, therefore, is not available and must be addressed in future reports.

Over 200 separate data elements can be collected on every medical malpractice claim, and these elements are collected at various stages in the TCIS. The TCIS data elements entered by the Office of the District Counsel contain legally related material with some limited clinical information. The Provider Information and Peer Review Form includes information concerning components of care reviewed by a physician or other appropriate health care practitioner from the facility where the alleged negligence occurred, as well as an overall assessment of the quality of the care rendered. The AFIP Data Collection Form consists of clinical data elements that are collected from medical records and associated documents.

MEDICAL MALPRACTICE DATA

The compliance rate among the Offices of the District Counsel in reporting the initial TCIS data on newly filed malpractice claims was high. Of 801 claims filed during fiscal year 1993, the Department of Legal Medicine had received approximately 752 TCIS printouts and copies of claim forms by 1 January 1994, the cutoff date for submission of case information for the 1993 report. Of those claims for which TCIS printouts were received, 83 percent were open, with the remainder settled, denied or closed through litigation by the cutoff date.

The response by the facilities and the four VA regional offices has been similarly excellent. Monthly status reports that apprise the four regions about overdue Peer Review Forms and medical records were initiated early. By the 1993 report cutoff date, Peer Review Forms and medical records were received on 653 cases, and AFIP reviews were completed on 501.

The figures and tables that follow display different "n" values reflecting their different sources. Figures 1 and 2 and Tables 1 through 4 were produced from TCIS forms. Figure 3 and Table 5 are based on data from Provider Information and Peer Review Forms. Tables 6 and 7 convey information from AFIP reviews.

Figure 1 is an analysis of the severity of injury resulting from the alleged malpractice. The notion that most VA medical malpractice claims concern frivolous matters appears refuted by this data. In over 80 percent of the claims, the injury was reported as either of major severity or resulting in death.

Figure 2 provides a breakdown of cases by the Injury Coding System used in the TCIS. More than half the cases were either surgery or treatment related, 26.1 percent and 30.7 percent, respectively. Medication related cases accounted for 12.8 percent of the injuries.

The ten most commonly involved clinical specialties are listed in Table 1 (next page). Since three clinical specialties can be listed for each malpractice claim, a total of 997 specialties were listed for the 752 claims in the TCIS database. The most frequently reported specialty was internal medicine with 131 cases or 13.1 percent. Other frequently listed specialties were as follows: general surgery, 8.7 percent; psychiatry, 7.4 percent; orthopedic surgery, 6.7 percent; and nursing, 5.4 percent.

This data can be compared with that from the private sector. A 1984 study by the General Accounting Office contained information from the civilian sector regarding 71,930 malpractice claims closed by 25 insurers.³ The most frequently represented physician specialty was obstetrics/gynecology with 8,927, or 12.4 percent of claims. Other frequently represented specialties in this study were: general surgery, 12.1 percent; orthopedic surgery, 8.4 percent; internal medicine, 7.5 percent; general practice, 6.3 percent; family practice, 6.3 percent; and radiology, 5.5 percent. Comparisons between VA and civilian specialty data undoubtedly reflect their patient populations. The VA has little or no obstetrics and, therefore, has no claims involving this specialty. As an aside, obstetricians are usually "over represented" in claims data, i.e., the rate of claims per 100 obstetricians is higher than that for most physicians. On the other hand, internal medicine and psychiatry are especially busy clinical areas within the VA medical care system, and the percentage of claims involving these two specialties reflect this.

Table 2 (next page) provides a general breakdown of the allegations of negligence in the database. Three categories of alleged negligence can be recorded for each malpractice claim. A total of 1,276 allegations of negligence were entered for 752 claims. Treatment related cases, the most frequent category of alleged negligence,

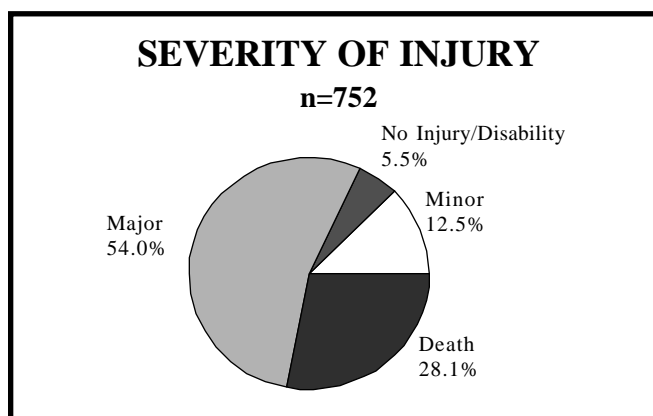


FIGURE 1

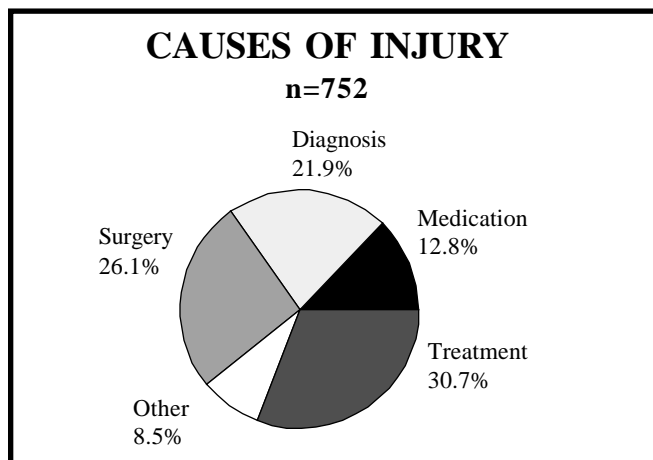


FIGURE 2

comprised 30 percent of the negligence codes. Diagnosis related cases accounted for 23.2 percent and surgery related cases accounted for 21.1 percent. These percentages are similar to recent data reported by the St. Paul Fire and Marine Insurance Company. In the insurer's 1992 report, 28 percent of 7,319 malpractice cases reported during 1990 and 1991 involved the failure to diagnose, 26.3 percent involved improper treatment, and 26 percent involved surgery.⁴

CLINICAL SPECIALTY

n=997

Specialty	Frequency	Percentage
Internal Medicine	131	13.4
General Surgery	87	8.9
Psychiatry	74	7.8
Orthopedic Surgery	67	6.9
Nursing	54	5.6
Emergency Medicine	53	5.6
Cardiology	53	5.6
Gastroenterology	34	3.6
Radiology	33	3.5
Cardiothoracic Surgery	28	2.9

TABLE 1**CATEGORY OF NEGLIGENCE**

n=1276

Category	Frequency	Percentage
Treatment Related	357	30.1
Surgery Related	268	21.1
Diagnosis Related	215	23.2
Medication Related	166	13.0
Monitoring	53	4.1
Risk Management	47	3.6
Miscellaneous	44	3.4
I.V./Blood Product	23	1.8
Biomedical Equipment	13	1.0
Anesthesia Related	10	.7

TABLE 2

Medication related errors in the VA database accounted for 166 negligence claims or 13 percent of the total. In June 1993, the Physician Insurers Association of America (PIAA) released a study on medication error as a cause of professional negligence claims. This study was based on the PIAA Data Sharing Project for which twenty of the forty-one member companies combined their malpractice claim experiences. Of the 90,166 claims included in their database, 6,646, or 13.56 percent, involved a medication related error.⁵ The PIAA study also noted that these errors were particularly injurious and expensive, yet often involved avoidable mistakes. As the TCIS grows, medication errors will be an important area to scrutinize.

Table 3 lists the most frequently represented hospital services. Up to three hospital services can be recorded for each occurrence in the database, but this table displays the hospital service that was first recorded. Medical and surgical services, with 31.1 percent and 27.8 percent, respectively, were the most frequently represented hospital services in the database.

HOSPITAL SERVICE

n=752

Service	Frequency	Percentage
Medical	234	31.1
Surgical	209	27.8
Ambulatory Care/OPD & Emergency	86	11.6
Psychiatry	57	7.5
Nursing	27	3.7
Other	139	18.3

TABLE 3**LOCATION OF INJURY**

n=752

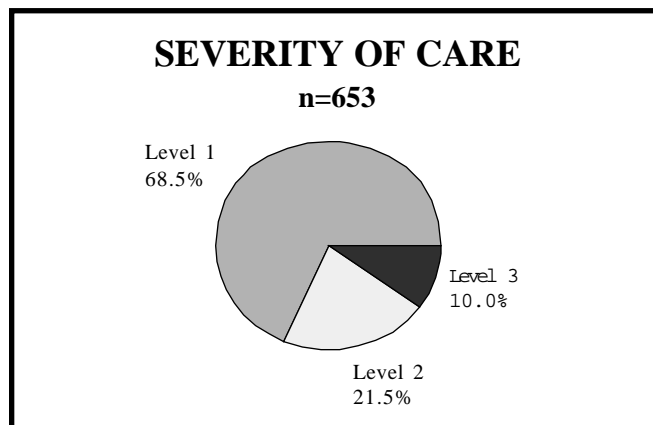
Location	Frequency	Percentage
Operating Suite	179	23.9
Patient's Room	177	23.6
Outpatient Area	130	17.3
Emergency Room/Admitting Area	53	7.0
Special Procedure Room	27	3.6
Radiology	23	3.0
Intensive Care	19	2.5
On VA Grounds	9	1.1
Recovery	8	1.0
Rehabilitation Clinic	7	.9
Other	120	16.1

TABLE 4

Table 4 provides a breakdown of the location of the injury for the 752 cases. In nearly half, the injury occurred either in the patient's room or in the operating suite. In another 17 percent, the injury occurred in the outpatient area.

A determination concerning the standard of care is made by a reviewer at the medical treatment facility and recorded on the Provider Information and Peer Review Form. The standard of care is graded Level 1, 2, or 3. A Level 1 standard of care indicates that

most experienced, competent practitioners would have handled the case similarly in all respects. A Level 2 grade indicates that most experienced, competent practitioners might have handled the case differently in one or more respects. A Level 3 grade indicates that most experienced, competent practitioners would have handled the case differently in one or more respects. Figure 3 indicates that in 68.5 percent of cases, the care was determined to be Level 1, in 21.5 percent, Level 2, and in 10 percent, Level 3. This is similar to standard of care determinations by senior peer reviewers in the DoD system.

**FIGURE 3**

Approximately 65 percent of DoD malpractice claims are determined to involve acceptable medical care, 30 percent involve substandard care, and 5 percent are indeterminate regarding the quality of care rendered.⁶

Table 5 provides a breakdown of claims based on the role played by the provider in rendering care. A total of 1,321 providers were named in 653 cases of alleged medical malpractice. Staff physicians comprised 61 percent; physicians in training, 32.8 percent.

Table 6 is a list of the nine most frequently occurring presenting symptoms in the database. A total of 1,048 presenting symptoms were identified in 501 malpractice cases reviewed by the AFIP. The most frequent presenting symptoms were: chest pain, 48 cases; joint pain or stiffness, 41 cases; abdominal pain, 38 cases; and general weakness, 37 cases. Interestingly, one common and potentially dangerous presenting symptom, headache, did not make the list.

POSITION OF INVOLVED PROVIDER		
n=1321		
Position	Frequency	Percentage
Staff Physician	809	61.3
Physician in Training	433	32.8
Nurses	44	3.3
PA	13	.9
Dentist	7	.5
Technicians	6	.4
Pharmacist	5	.3
Therapist	3	.2
Administrative Officer	1	.1

TABLE 5

PRESENTING SYMPTOM		
n=1048		
Symptom	Frequency	Percentage
Chest Pain	48	4.9
Joint Pain or Stiffness	41	3.9
Abdominal Pain	38	3.6
General Weakness	37	3.5
Dyspnea	34	3.2
Backache	29	2.8
Depression	27	2.6
Substance Abuse	23	2.2
Local Weakness	20	1.9

TABLE 6

Table 7 (next page) lists the organ system involved for 501 cases in the database. The two most frequently involved were the circulatory system with 90 cases, and the musculoskeletal system with 85 cases.

NEW DEVELOPMENTS AND PLANS FOR TCIS

The TCIS will continue to be a vital component of VA Quality Management efforts. Health care providers and administrators, as well as Congress, have demonstrated recurring interest in data regarding medical mal-

ORGAN SYSTEM INVOLVED		
n=501		
Organ System	Frequency	Percentage
Circulatory System	90	18.0
Musculoskeletal System	85	17.0
Digestive System	54	10.8
Nervous System	44	8.8
Mental Disorders	44	8.8
Other	184	36.6

TABLE 7

practice claims. The system will continue to evolve, and future reports will contain more information related to closed cases. Comparison of fiscal year data with that from prior years will also be possible.

Some changes in the TCIS, Provider Information and Peer Review, and AFIP Data Collection Forms are being considered to better facilitate data collection. Due to ongoing changes in the VA Health Care System, information flow for the TCIS will have to be modified to ensure continued success of the program.

Finally, as new trends in medical malpractice are recognized in this database, such as those involving certain diagnoses, procedures or specialties of medicine, researchers are encouraged to contact the Office of Quality Management, VA, or the Department of Legal Medicine, AFIP, to arrange specific studies. Focused studies concerning cardiology/cardiothoracic surgery, anesthesiology and medication related errors are currently being developed.

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